



DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 51 and 52

[Doc. No. AMS-SC-16-0063 FIR]

Inspection Application Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting as a final rule, without change, an interim rule that amended the inspection, certification and standards requirements for fresh fruits, vegetables and other products and processed fruits and vegetables, processed products and certain other processed food products by adding an option to allow for electronic submissions of inspection applications. The interim rule also eliminated outdated terminology that referenced submission of inspection applications by telegraph.

DATES: Effective [INSERT DATE 1 DAY AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Francisco Grazette, USDA, AMS, SCP, SCI Division, 1400 Independence Avenue, SW, Room 1536, Stop 0240, Washington, DC 20250-0250; telephone: (202) 720-5870; fax: (202) 720-0393; email: Francisco.Grazette@ams.usda.gov.

SUPPLEMENTARY INFORMATION: Section 203(c) (7 U.S.C. 1622(c)) of the Agricultural Marketing Act of 1946 (7

U.S.C. 1621-1627) (Act of 1946), as amended, directs and authorizes the Secretary of Agriculture to develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.

Parts 51 and 52 of title 7 of the Code of Federal Regulations specify the inspection, certification and standard requirements for fresh and processed fruit, vegetable and specialty crops to ensure uniformity and consistency.

USDA is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect and does not preempt any state or local law, regulation, or policy unless it presents an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

This rule continues in effect an interim rule that amended the inspection, certification and standards requirements for fresh fruits, vegetables and other products and processed fruits and vegetables, processed products and certain other processed food products (7 CFR

parts 51 and 52) by adding an option to allow for electronic submissions of inspection applications. This rule also continues in effect a change that eliminated outdated terminology referencing the telegraph. These changes were administrative in nature and did not impose any new requirements on applicants.

Pursuant to Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) (Act of 1937), whenever certain commodities are regulated under Federal marketing orders, imports of those commodities into the United States are prohibited unless they meet the same or comparable grade, size, quality or maturity requirements as those in effect for domestically produced commodities. The Act of 1937 also authorizes USDA to perform inspections and other related functions (such as commodity sampling) on those commodities and to certify whether these requirements have been met.

AMS's Specialty Crops Inspection (SCI) Division performs the inspections and other related functions on Section 8e imports in accordance with its authority under the Act of 1946.

SCI Division amended 7 CFR parts 51 and 52 to add the ability to submit initial inspection requests electronically and eliminate terminology referencing the telegraph. Individuals desiring to apply for an inspection for applicable fruit, vegetable, and specialty crop imports

must complete and file AMS's form SC-357, Initial Inspection Request for Regulated Imported Commodities, in writing or electronically, to notify AMS of its need for an inspection.

Amending parts 51 and 52 of title 7 to provide for the electronic filing of the application for inspection supports the International Trade Data System (ITDS), a system that streamlines the export and import process for America's businesses. Implementation of ITDS allows businesses to electronically submit import and export cargo data required by U.S. Customs and Border Protection (CBP) and its Partner Government Agencies (PGAs) through a "single window" concept using CBP's Automated Commercial Environment (ACE) system.

The update to the inspection, certification and standards to allow for electronic submission of inspection applications meets CBP's requirement for ITDS.

In an interim rule published in the **Federal Register** on December 21, 2016, and effective on December 22, 2016 (81 FR 93571, Doc. No. AMS-SC-16-0063 IR), §§ 51.6 and 52.7 were amended by adding the option for electronic submission of inspection applications and removing reference to submission by telegraph.

Final Regulatory Flexibility Analysis

Pursuant to the requirements of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612, AMS has considered

the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of no more than \$750,000 and small agricultural service firms are defined as those having annual receipts of no more than \$7.5 million (13 CFR 121.201). Under these definitions, AMS estimates the number of companies affected is approximately 60,000 with 24,000, or 40%, of the companies considered small businesses. AMS does not foresee any effect on members of the industry as a result of this final rule.

AMS made these administrative changes to allow for the use of current technology by allowing the application for inspection to be submitted electronically and eliminating references to filing applications for service by telegraph.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements for the SC-357, Initial Inspection Request for Regulated Imported Commodities, was previously approved by the Office of Management and Budget (OMB) and assigned OMB

No. 0581-0125, effective August 1, 2016 (Regulations Governing Inspection Certification, of Fresh & Processed Fruits, Vegetables & Other Products 7 CFR part 51 & 52). No changes are necessary in those requirements as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Comments on the interim rule were required to be received on or before March 23, 2017. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to:

https://www.regulations.gov/document?D=AMS_FRDOC_0001-1559.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

List of Subjects

7 CFR Part 51

Food grades and standards, Fruits, Nuts, Reporting and recordkeeping, Vegetables.

7 CFR Part 52

Food grades and standards, Food labeling, Frozen foods, Fruits, Reporting and recordkeeping requirements, Vegetables.

Accordingly, the interim rule that amended 7 CFR parts 51 and 52, published at 81 FR 93571 on December 21, 2016, is adopted as a final rule without change.

Dated: June 6, 2018.

Bruce Summers,
Administrator,
Agricultural Marketing Service.

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